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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 4 of General Assembly resolution 51/196 B of 31 July 1997, in which the Assembly requested me to submit a report no later than 30 November 1997 on the implementation of the resolution and the ways in which the international community could continue to assist Haiti in the areas of institution-building and human rights. Prepared in consultation with the Organization of American States (OAS), the report contains a review of the overall context in which the OAS/United Nations International Civilian Mission (MICIVIH) functions and an overview of the activities of MICIVIH with regard, in particular, to the institutional development of the police, prisons and judiciary and the promotion of civic education. The report also contains recommendations concerning the renewal of the mandate of MICIVIH, which expires on 31 December 1997.

II. POLITICAL CONTEXT

2. Since my report of 26 June 1997 (A/51/935) on the situation of democracy and human rights in Haiti, the political context has been dominated by the stalemate resulting from the flawed partial legislative and local government elections of 6 April 1997 and the resignation of the Prime Minister and his cabinet on 9 June 1997. On 20 October, the caretaker Prime Minister stated that he would no longer carry out his caretaker responsibilities, thereby deepening the institutional crisis. The controversies surrounding the partial legislative elections of 6 April 1997 which have brought the electoral process at this level to a halt remain unresolved. Despite almost universal censure and calls for its modification, if not its replacement, the Provisional Electoral Council has continued, through indirect elections, to put in place territorial assemblies. These assemblies, which will underpin decentralized government, will also be instrumental in the establishment of the Permanent Electoral Council and the

designation of judicial officials. The legitimacy of these assemblies and of their decisions will no doubt be questioned. At least one party called recently for the suspension of this local election process and a number of sitting municipal officials have refused to deal with these newly elected or designated officials. In August 1997, the United Nations suspended its electoral assistance, making its resumption contingent on the credibility and independence of the Electoral Council.

3. Sustained mediation efforts by President Préval over the past few weeks have not yet resolved the impasse, which stems from policy differences, internal divisions and efforts to control the political levers of power within the now fragmented ruling government coalition. On 3 November, President Préval announced measures to resolve the electoral stalemate, including the establishment of a Presidential Committee (Commission présidentielle d'appui au Conseil électoral provisoire) which will report on the current electoral process, as well as the replacement of six members of the Council. He also said that he would hold further consultations on his choice of Mr. Hervé Denis as the new Prime Minister.

4. The five-month paralysis of governmental activity has impinged on urgently needed socio-economic development. It has also had a deleterious impact on the body politic, weakening further the authority of the State, eroding the little confidence enjoyed by the executive and the legislative branches and increasing public disillusion and cynicism vis-à-vis politicians and political parties. Widespread concerns remain over the maintenance of public security. Should this situation persist much longer, the nascent democratic process itself could be brought into question. It could also imperil the long-sustained international commitment to assist Haiti.

5. One of the consequences of the lack of tangible socio-economic progress and the deteriorating political situation has been criticism of the international presence. While it does not seem to be shared by the majority of the population, such criticism is a reflection of deeply held nationalistic sentiments. Symptomatic of the rejection of the so-called "foreign occupation" was the inclusion of a rider in the judicial reform bill passed by the Chamber of Deputies in September 1997 which calls for the end of all foreign armed presence. However, these sentiments have not in general impaired the working conditions of either MICIVIH or the United Nations Transition Mission in Haiti (UNTMIH), or their relations with officials and the wider society.

III. MANDATE OF THE INTERNATIONAL CIVILIAN MISSION

6. In order to contribute to the strengthening of democratic institutions and further the establishment of a climate of freedom and tolerance propitious to the consolidation of long-term democracy in Haiti, MICIVIH carries out three major tasks, namely, technical assistance (institution-building, technical cooperation and local capacity-building); human rights promotion and civic education; and monitoring of the human rights situation. These three functions are complementary in the integrated operations of the Mission. Monitoring identifies the shortcomings. Technical cooperation and promotion activities address those shortcomings by helping to strengthen the institutions on whose

functioning the protection and promotion of human rights depend (police, prisons, judiciary, ombudsman and local non-governmental organizations).

7. Through its wide range of activities related to all aspects of its mandate, sometimes in concert with OAS, the United Nations Development Programme (UNDP), specialized agencies and the civilian police element of UNTMIH, MICIVIH has contributed in a number of ways to institution-building and democratic consolidation. These include the deterrence and prevention of human rights violations; the mitigation of the situation of victims of human rights violations, through representation as well as medical and other forms of assistance; improvements in performance by the judiciary, police and prisons with regard to respect for human rights, due process and international norms adopted by the United Nations and OAS; the acquisition of new skills, techniques and knowledge by a wide range of officials and elected representatives that enhance institutional development; its contribution to the conceptualization and planning of judicial reform as well as to the stimulation of public debate on this and related issues such as prolonged pre-trial detention, impunity, reparations and rehabilitation of victims of human rights abuse; a contribution to the creation of the Office of the Ombudsman, which will have an important human rights promotion role; and capacity-building for local human rights non-governmental organizations and organizations of civil society. The Mission's institutional memory, its knowledge of local mores and practices and its field experience, as evidenced by its regular reports and in-depth analyses of the judicial, prison and police institutions, are comparative advantages which have made it a useful technical resource for Haitian authorities and institutions, donors and other sectors of the international community. The relations of trust MICIVIH has built with all sectors of the population have made the Mission a sought-after intermediary in resolving local conflicts and have permitted it to maintain excellent working relationships with all its interlocutors, local and international.

IV. INSTITUTION-BUILDING AND HUMAN RIGHTS MONITORING

8. Since my last report, the human rights situation has remained satisfactory overall and fundamental liberties continue to be widely enjoyed. Nevertheless, shortcomings persist in the form of ongoing though not systematic human rights violations, including violations of the rights to life, physical integrity, individual freedom and due process. Enormous challenges remain to be overcome so that institutional development and the changes achieved to date become firmly rooted and thus more durable. The human rights monitoring activities of MICIVIH have fed closely into its institution-building work with a view to proposing lasting solutions to the most pressing problems and shortcomings identified.

A. Haitian National Police

9. Two years after its creation and with the support of the international community, the police force continues to make headway in consolidating its work, particularly through ongoing training programmes. There are signs that the police are beginning to develop an investigative capacity. They have been increasingly successful in dismantling armed gangs and car theft and drug

trafficking rings. They have also identified and arrested persons suspected of recent armed attacks on some well-known citizens and police agents. However, the success of institution-building efforts was limited by operational, managerial, logistical and other constraints. These weaknesses, as well as problems of leadership and supervision, particularly at the regional and local levels, hampered the effectiveness and professionalism of the Haitian National Police. Changes in police commissioners have had mixed results, some police stations becoming better organized and others deteriorating, including with regard to respect for human rights. Lapses of discipline, manifest in absenteeism, failure to wear uniforms, low morale and levels of motivation, have not improved to a noticeable degree. Persistent allegations of police involvement in crime and other forms of corruption also indicate the continuing need for vigilance and disciplinary action to prevent it from becoming endemic. In this regard, the National Police recently strengthened its internal disciplinary regulations. Furthermore, the Director General of the National Police, and others, have warned the police against becoming politicized.

10. A new recruitment programme and a nationwide police redeployment programme were intended to address some of these problems. The full impact of the redeployment, which began in September and was due to end by October, can be assessed only once it is completed. However, initially it will disrupt the operations and nascent effectiveness and institutional memory of the National Police. MICIVIH conveyed to the police authorities some of its immediate concerns, which included the dispersal of trained community police teams, the interruption of training programmes, and delays in replacing transferred police leading to severe staff shortages, particularly in rural areas already badly understaffed.

11. The training and deployment of heavily armed crowd-control and rapid intervention units were extended to different regions. These units have played an important role in maintaining law and order and backing up regular police. However, concerns have been growing about the lack of clarity in their role and command structure as well as the risks of their taking over functions which should fall under the regular police, such as arrests and interrogations. UNTMIH is addressing these concerns by providing advice and helping tighten the legal framework governing both the crowd-control and rapid intervention units. Meanwhile, confusion in identifying the different units because of similar black uniforms has frequently occurred and hampers accountability.

12. In the context of its assistance to institution-building, MICIVIH worked closely with the Haitian National Police to reinforce training in human rights through regular seminars in the field and training sessions organized by the Police Academy for different categories of police. In particular, MICIVIH sought to develop its programme of conflict resolution with police in the field as a means of transmitting new non-violent techniques, for example mediation, and of supporting community police initiatives. Police have largely welcomed MICIVIH's continuing training sessions, some of which were carried out with United Nations civilian police. In addition to presentations, case studies and role playing, the sessions facilitated an open and sometimes frank debate about human rights in the context of police work, as well as the role of MICIVIH. Together with UNTMIH, MICIVIH also carried out training workshops on interrogation techniques.

13. The Mission's regular monitoring of conditions in police stations, and of the treatment and legal situation of detainees, enabled it to make recommendations for improvements at local and national levels. The detention register developed by MICIVIH in collaboration with Haitian police and the United Nations civilian police, described in my previous report, was finally distributed to most police stations. Training began in its use, both in the field and at the Police Academy.

14. Hasty and inappropriate use of firearms by police agents on and off duty is symptomatic of their lack of maturity and need for more focused training. Although MICIVIH received no reports of killings by police in August, a total of at least eight people were shot dead in the following two months, all but one of them in the capital. While some appeared to be cases of legitimate defence, three were under preliminary investigation as possible extrajudicial executions, one an arbitrary killing by an off-duty National Police agent and another a clear case of unnecessary use of lethal force during a police operation. One individual died, reportedly after having been beaten in police custody. Greater care must be taken to ensure that police investigations, particularly searches, operations to arrest suspects and interrogations, are carried out within the law and with proper respect for human rights principles, including the rights to life and physical integrity. The persistence of allegations of beatings and other forms of ill-treatment during arrest and interrogation requires an appropriate response from the police authorities. Despite public commitment to enforcing accountability, the fact that such abuses are rarely sanctioned sends an ambivalent message to those responsible.

15. Another worrying development was the increasing tendency to prolong garde à vue (police custody) detention beyond the 48-hour constitutional limit, sometimes through a judicial order issued without the judge having seen the detainee and sometimes for up to several weeks. Police argued they needed more time to carry out investigations and that detainees would be released if taken before a judge. This problem has persisted in spite of MICIVIH raising it with national and local police authorities. It was recently brought to the attention of the Ministry of Justice.

16. The Office of the Inspector General of the Haitian National Police, whose activities are crucial to the enforcement of accountability and to respect for human rights by police agents, operated under a number of constraints, including threats against its investigators. It pursued investigations into a number of cases of human rights violations, including those brought to its attention by MICIVIH. However, the lack of progress in some key cases and delays in taking prompt disciplinary action against several police agents who were repeat offenders gave cause for concern. In one such case, the lack of timely and appropriate disciplinary and judicial action had fatal consequences. A handful of police agents were placed in detention for human rights violations, but in the majority of cases complaints against police did not progress through the court system. The lack of enforcement of discipline through serious investigations at the level of regional directors (directeurs départementaux) was one of the issues being addressed by the Inspector General with the intention of making them fully assume their responsibilities in this area.

B. Prisons and detention centres

17. Like the police force, the National Penal Administration (Administration pénitentiaire nationale) (APENA) is reaching a critical period where apparent weaknesses and problems need to be tackled to ensure that it matures into a fully functioning institution respectful of human rights. The integration of APENA into the National Police has still not yet been fully resolved in terms of establishing working modalities and regulations, and has slowed down some of the reforms needed, including the finalizing of an internal code of conduct and mechanisms for investigating and sanctioning misconduct. Clear guidelines are also needed regarding the carrying of firearms by prison personnel to avoid incidents of misuse which have already occurred and to correct the growing perception among APENA guards that they are police agents and therefore have a right to carry and use weapons, as well as to make arrests.

18. Improvements in conditions of detention were maintained with the support of the international community. Nevertheless, APENA suffers from operational and logistical constraints, including staff shortages, restricted food budgets, intermittent sanitary problems in certain prisons and deficiencies in security. Prison authorities indicate that the prison population has doubled in two years, placing increasing strains on existing resources. Although maintaining the registre d'écrou has now become an institutionalized part of prison work, the quality of record-keeping in prisons continues to vary. Problems of empty or incomplete prisoner dossiers persist, though attempts have been made to address this issue through discussions with judges, State prosecutors and others concerning the transmission of warrants and other types of legal documents. New types of registers provided by UNDP, in addition to the registre d'écrou, should improve the tracking of prisoners' movements to and from court, for example, as well as of impending release dates. The recruitment of new APENA agents which began in September will alleviate some of the shortages in human resources and, it is hoped, result in the dismantling of the system of majors whereby prisoners are placed in charge of cells.

19. Many of these issues were included in a 46-page report on prisons, published by MICIVIH in August, which assessed the achievements and shortcomings of prison reform and noted the marked improvement in prison conditions since the programme's inception early in 1995. The report contained a series of recommendations regarding, inter alia, training, security and internal investigation mechanisms which have formed the central part of the Mission's ongoing discussions with prison authorities.

C. System of justice

20. MICIVIH continued to work in close collaboration with the Ministry of Justice, and provide input into conceptualizing, planning and promoting judicial reform, both at government level and in public forums. The Commission préparatoire à la réforme du droit et de la justice met regularly during this period, but has yet to finalize its blueprint for reform. MICIVIH facilitated the visit to Haiti of three Argentine penal experts to assist the Commission in the preparation of two key policy documents. At the same time, the August 1996

judicial reform bill moved laboriously through parliament: an amended version of the Senate bill was passed by the Chamber of Deputies in September.

21. The need to determine criteria for the recruitment of judicial officials has become all the more pressing as the process of installing territorial assemblies, among whose responsibilities is the designation of judicial officials, draws to a close. A draft law to this effect has been prepared by the Ministry of Justice but it can be transmitted to Parliament only after a new Government has been installed.

22. Juvenile justice is also a priority issue for MICIVIH. Two MICIVIH-recruited consultants made a number of proposals on the question, in particular the opening of a juvenile court. They also prepared two draft circulars, one on the protection of minors in danger and the other concerning the detention of women and minors, to be discussed with the Government.

23. There were a few positive initiatives and piecemeal signs of progress, mainly at the local level. Training, together with the recent designation of some competent and motivated officials, has had a positive impact in some places. Ongoing efforts to improve the working conditions of judicial officials need to be maintained, as do technical improvements to the administration of justice, such as case processing and upgrading the skills of court clerks. The Ministry of Justice's eight-member Inspectorate Unit was due to complete its first study by the end of October. It has been working with justices of the peace in Port-au-Prince and elsewhere in the Département de l'Ouest, analysing legal dossiers and documenting irregularities.

24. The training of judicial personnel will gain greater momentum with the École de la Magistrature reopening its doors after a year to receive 60 new students for a six-month programme of studies to become judges at different levels. MICIVIH will give instruction on six different themes. Discussions were held with the School concerning the incorporation of conflict resolution modules into the curriculum and training seminars in mediation were organized (see para. 41 below). Judges from 24 tribunaux de paix completed a three-month training programme in September which was run by a USAID contractor.

25. MICIVIH also organized a series of inter-institutional seminars in Port-au-Prince and six other towns, which brought together judges, lawyers and prison and police officials for key training on search, arrest and detention procedures respectful of the law and human rights principles. The training was based on the set of circulars prepared by the Ministry of Justice with the technical assistance of MICIVIH and published in February 1997. Participants welcomed the seminars as much needed, suggested that they be extended to other officials and asked for follow-up sessions for themselves.

26. Several meetings of judicial officials within the Port-au-Prince area facilitated discussions about procedures and coordination with other institutions. A MICIVIH evaluation of the donor-funded case management project in State prosecution offices and courts in the capital and six other towns showed mixed results, some registers being very poorly maintained while others were well kept. Recent changes in judicial personnel and State prosecutors led to improvements in the administration of justice in a small number of places,

but conflicts between judicial and other officials sometimes exacerbated existing problems elsewhere. Corruption and the incompetence of some judicial officials resulted in gross miscarriages of justice.

27. Observers in the field regularly monitored the processing of cases through the judicial system, especially those of detainees held in prolonged pretrial detention. A MICIVIH survey of more than 150 detainees held in the National Penitentiary since before January 1996 noted with concern that only 33 had been convicted. Only 9 of 120 minors at Fort National prison were serving sentences early in September, and 53 of the 120 dossiers were empty. Visits to 14 prisons early in September showed the number of convicted prisoners ranging from 5 per cent to 45 per cent.

28. Respect of due process requirements was hindered by the structural weaknesses of the judicial system. A number of persons arrested in 1996 on charges of plotting against the State or of stealing State property, charges viewed by opposition groups as politically motivated, were released, among them all but one former member of the Haitian armed forces arrested at the headquarters of the Mobilisation pour le développement national in August 1996 and the former head of the State accounting department. The Mission repeatedly raised its concerns about a small group of individuals held on similar charges since the first half of 1996, some without properly constituted legal dossiers, in particular former General Claude Raymond and Evans François. In general, however, judges and prosecutors made efforts to process the cases of detainees brought to their attention by the Mission where there were serious irregularities.

29. Criminal assizes held throughout the country between July and October highlighted many of the ongoing problems of a dysfunctional judiciary, such as poorly conducted trials, a lack of police and judicial investigations, no material or other evidence brought to court, and an absence of witness testimony. Difficulties in constituting juries also led to postponements and delays, although there were some attempts this year to educate potential jurors through the media, including during MICIVIH-sponsored radio broadcasts. In Gonaïves, the State prosecutor pre-empted potential protests concerning the absence of the 1994 Raboteau massacre from the list of cases to be tried at the assizes by meeting with popular organizations and by a regularly broadcast radio spot to sensitize listeners to the role and importance of the assizes. A MICIVIH consultant will assist in developing the investigative capacities of the cabinets d'instruction (examining magistrates) later this year.

30. In October, the President of the Supreme Court called for the reintroduction of the death penalty as a means of combating armed crime. The death penalty was abolished in Haiti under the 1987 Constitution. Its reintroduction would therefore require a constitutional amendment and would be in violation of the American Convention on Human Rights ratified by Haiti. The proposal has so far met with little institutional or popular support.

D. Inter-institutional relations

31. The protection of human rights is still often undermined by disputes between members of the different institutions - police, prison and judicial officials for example - and, more frequently, by the lack of coordination. As mentioned in paragraph 25 above, MICIVIH was able to bring the different institutions together to defuse tensions or propose ways of collaborating However, these efforts have often met with only temporary success because of the absence of more deeply rooted structures and procedures. In this context, an important initiative was a series of MICIVIH/UNDP seminars organized under the auspices of President Préval in each of the different regions of the country. The seminars provided a rare opportunity for a wide range of officials - police, judicial, elected and other local officials - to come together at a regional level to discuss and learn about inter-institutional cooperation.

E. Impunity, compensation and rehabilitation of victims of past human rights abuses

32. With several anniversaries falling within this reporting period, including that of the coup d'état and of the assassination of several key personalities in 1993/1994, public debate on the question of impunity and the need for government action intensified. The Platform of Human Rights Organizations held a two-day seminar on impunity in which MICIVIH participated. A series of meetings, attended by MICIVIH, was chaired by President Préval in August to look at judicial reform, the prosecution of human rights violations, with particular emphasis on the Raboteau case, and compensation for victims of human rights violations. Although some measures were proposed during the meetings, few have been effectively implemented so far. In a press release to mark the anniversary of the coup d'état on 30 September, MICIVIH called upon the Government to take concerted steps to address the problem of impunity, especially the distribution of the report of the National Commission on Truth and Justice and the implementation of its recommendations. Weaknesses in the functioning of the judiciary and their effect on the prosecution of past human rights violations were highlighted during recent criminal assizes when several former members of the armed forces or their associates were acquitted following seriously flawed trials.

33. Local human rights organizations were vociferous in their criticism of continuing impunity and the dysfunctional judiciary. They organized a number of activities in memory of victims of the coup d'état and also to discuss strategies for combating impunity. MICIVIH supported several events such as days of reflection and a cultural evening organized by victim-support networks. In this context, the Mission prepared documents setting out United Nations principles on impunity, compensation and rehabilitation for distribution throughout the country. Also circulated was a Mission-prepared document summarizing Haitian initiatives to tackle impunity. Non-governmental organizations providing rehabilitation support to victims of the coup d'état period consolidated their work through the training of Haitian staff and ongoing group and individual therapy sessions.

F. Office of the Ombudsman

34. The establishment of the Office of the Ombudsman (Protecteur du citoyen) moved forward with the recruitment of a small core of staff and the start of training programmes with MICIVIH support. At the invitation of the Quebec Ombudsman, the staff travelled to Canada for an initial two-week training programme. An accompanying MICIVIH official helped adapt the programme to Haitian realities. This was followed by a one-week training session in the Mission's headquarters in Port-au-Prince with presentations by a number of high-calibre Haitian contributors. A one-week practical training internship in MICIVIH's regional offices will commence in November. MICIVIH recruited a consultant to work full time with the Ombudsman's Office until the end of the year. The official opening of the Office took place on 4 November 1997.

V. HUMAN RIGHTS PROMOTION

35. The human rights promotion activities of MICIVIH focused on four main areas, some of which overlapped with its institution-building work, namely, strengthening and support of Haitian non-governmental organizations working in the field of human rights; human rights education, at both national and local levels; human rights promotion through the media; and training in conflict resolution techniques.

36. The technical capacity of Haitian human rights organizations has been gradually improving as a result of training activities, some of them initiated or supported by MICIVIH. However, monitoring and reporting on human rights issues by those organizations need to be further developed. The Mission pursued its training programmes on prison monitoring, identifying and bringing together interested organizations and officials, as well as playing a consultative role in similar initiatives by other groups. These workshops have had a number of positive effects. They have served as concrete demonstrations of the progress made in conditions of detention. More importantly, they have opened the way to future collaboration between local human rights non-governmental organizations and prison authorities.

37. In its collaboration with State institutions, the Mission joined the Ministry of Education and the major federations of independent schools in a project initiated by a United States agency to develop a text book on civic education for secondary schools and to train teachers in its use. MICIVIH also assisted the Secretary of State for Youth, Sports and Civic Service in the production of a report on the conference on civic education, action and service held in 1996, and provided a four-day training on human rights for the secretariat's 80 agents multiplicateurs de changement. The agents themselves, with MICIVIH support, led various training seminars around the country.

38. The demand for civic and human rights education sessions remains very high throughout the country. The Mission was able to satisfy it partly through its sponsoring of seminars, some on women's rights, others dealing with the role of the justice system and the police, decentralization, the Constitution and the rights and responsibilities of citizens. These seminars were led by Haitian animators, some originally trained by MICIVIH.

39. The MICIVIH directors gave extensive interviews to the press on the human rights situation, judicial reform, impunity and other issues to increase awareness of those issues and stimulate public debate. In September, the Mission began a new civic education campaign using the media. The first of a series of eight television and radio spots deals with the issue of popular justice. The common thread running through the spots, which use the same characters in different settings, is that crime must be dealt with institutionally by the police and the judicial system, with the support of citizens. Twenty-eight radio and television stations are broadcasting the spots throughout the country, and the first of them has stimulated public debate on the treatment of criminals. MICIVIH-sponsored television and radio programmes were developed in two provincial towns, while regular broadcasts continued in a third. A non-governmental organization servicing the Haitian journalist community in resources and training organized, with MICIVIH support, an intensive three-week training programme for selected journalists on human and social rights, with a view to strengthening reporting on human rights issues.

40. Documents produced by MICIVIH were widely distributed to the public, to organizations of civil society and to government, parliamentary and other officials, in particular its report on prisons and the book Haiti: Droits de l'homme et réhabilitation des victimes.

41. MICIVIH began expanding its conflict resolution programme with a view to increasing its outreach and impact. A three-week 'training of trainers' workshop in October has developed a cadre of Haitian instructors to work with MICIVIH and community-based programmes in this area. The initiatives were particularly welcomed in the judicial field as a potential means of reducing the caseloads of overburdened courts. Training modules are in preparation for inclusion in the new programme for students at the École de la Magistrature and two five-day training seminars for justices of the peace were organized in the Artibonite region, with the assistance of the OAS Unit for the Promotion of Democracy. An evaluation of the use of mediation techniques in the region, where previous training had been given, showed that some judges were already using such methods on a regular basis. Participants in earlier programmes for peasant leaders have been recruited by the government land reform programme. Mediation and conflict resolution training for police was to be expanded but the redeployment has led to postponement of some of the seminars. Particularly disappointing was the dispersal, as a consequence of the redeployment, of a team of Haitian National Police agents trained to give training in mediation as part of a community police pilot project in the north.

VI. CONCLUSIONS AND RECOMMENDATIONS

42. Three years after the return to constitutional order, tangible progress has been accomplished and maintained in the area of human rights. Fundamental liberties are widely enjoyed and individual rights respected. In great part, this is a result of training, the achievements of even moderately successful institution-building with respect to the police and prisons, a concerted effort at accountability and the deterrent effect of human rights monitoring.

43. Institutional development has, however, been uneven. Reinforcement of the judiciary has lagged behind that of the police, increasingly creating situations where the police, frustrated by endemic judicial dysfunction, are resorting to taking the law into their own hands. Judicial reform, revamping of the judiciary and improvements to the administration of justice have been painfully slow and inadequate. Low institutional capacity and a lack of leadership have had a negative impact on the best efforts of MICIVIH and donors. Much remains to be done in this crucial area to enhance the rule of law and respect for due process. The long-awaited recommendations of the Judicial Reform Preparatory Committee are expected to be available in December 1997. The experience and expertise of MICIVIH continue to be critical inputs to the process of renovation and reform from a conceptual and functional point of view. Other institutions crucial to the promotion and protection of human rights also require further consolidation.

44. MICIVIH continued to carry out liaison with UNTMIH on matters of mutual concern. In the field and in Port-au-Prince, the Mission's observers worked with the United Nations civilian police in training Haitian National Police officers. In the same manner as its predecessors, UNTMIH provided MICIVIH with both logistical and administrative support.

45. MICIVIH training initiatives for a wide range of officials, as well as its promotion and civic education activities for officials and representatives of civil society organizations, have in general been well received and appreciated. These activities contribute to the reinforcement of a democratic culture through greater civic awareness and responsibility. The Mission's activities promoting tolerance and non-violent conflict resolution techniques have created great interest but need to be further developed. Capacity-building for local non-governmental organizations has been carried out extensively in preparation for the Mission's departure but, both in this sector and in State institutions, further development is required.

46. Though substantial, the progress achieved so far with respect to human rights remains fragile, first, because of the embryonic nature of the new ethos and culture which give priority to respect for human rights and accountability but are not yet deeply rooted in these brand-new institutions. Secondly, the increased pressures and challenges to law enforcement which might follow the end of the peacekeeping presence could lead to the temptation to sacrifice accountability on the altar of greater security effectiveness. On several occasions, the Mission has observed that periodic surges in armed crime and attacks on the police are accompanied by a sharp increase in human rights abuses. Thirdly, the lack of self-confidence, the under-equipment and the lack of leadership at the local level in isolated police posts are contributing to a siege mentality which is not conducive to the respect for human rights and proper police procedures. Last but not least, important human rights protection mechanisms and institutions are either still in their infancy (the Office of the Ombudsman should commence functioning in November 1997) or require further institutionalization and acceptance, as in the case of the Office of the Inspector General of the Haitian National Police. Other control mechanisms are not yet functional (prison inspectorate and judicial inspectors). Civilian society oversight mechanisms with regard to the police and prisons are still

embryonic. In such a context, a continuing human rights monitoring presence as well as institutional consolidation activities would be invaluable.

47. As requested by President Préval on 10 November 1997 (see annex), I recommend the extension of the United Nations component of MICIVIH for a period of one year. The present three-pronged mandate should be retained with an emphasis on judicial reform, institutional consolidation and local capacity-building. The extension of the Mission's presence should be placed in a context not only of institutional consolidation but also of transition. The period of transition should be used to prepare successor mechanisms or agencies (UNDP, OAS) to fully assume the Mission's responsibilities in institution-building which require long-term continuity of planning and implementation. The technical capacity of MICIVIH during this interim period, in particular for judicial reform, would need to be substantially strengthened. This enhanced technical capacity could be bequeathed to the successor mechanism or agency at the end of the extension period.

ANNEX

[Original: French]

Letter dated 10 November 1997 from President René Préval addressed to the Secretary-General

Through its institutional capacity-building, promotional, educational and human rights monitoring activities, the Organization of American States/United Nations International Civilian Mission in Haiti (MICIVIH) has contributed substantially to strengthening Haitian institutions and establishing a democratic culture in support of the efforts of the Government of Haiti in that regard.

Important tasks remain to be accomplished, however. Much-needed judicial reform is in the course of preparation. The strategic framework for this reform is being formulated and will shortly be completed.

Certain key institutions for the promotion and protection of human rights, such as the Office of the Ombudsman, are very recent. Others require further consolidation. This applies, for example, to the Haitian National Police.

The Haitian Government hopes to be able to count on the support of MICIVIH for the period ending 31 December 1998 in order to continue with the institutional consolidation which is an essential element for a State governed by the rule of law and for strengthening the democratic process.

(Signed) René PRÉVAL

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Nigeria

Note by the Secretary-General

1. In its resolution 51/109 of 12 December 1996, the General Assembly welcomed the exercise of my good offices with the Government of Nigeria, and requested that I undertake further discussion with the Government of Nigeria, in cooperation with the Commonwealth, on matters related to the purposes of the resolution. The General Assembly also requested that I report on progress in the implementation of the resolution, and on the possibilities for the international community to offer practical assistance to Nigeria to achieve the restoration of democratic rule and the full enjoyment of human rights in Nigeria.

2. In accordance with that resolution, discussions with the Government of Nigeria on matters related to the mandate of my good offices mission have continued at the highest levels. While the Government of Nigeria has approached those discussions in a positive spirit, a further response is still awaited to the recommendations of the fact-finding mission sent by my predecessor in March-April 1996.

3. In the light of the decisions taken at the recent meeting of the Commonwealth Heads of State and Government in Edinburgh, Scotland, from 24 to 27 October 1997, I shall be consulting again with the Government of Nigeria, the Secretary-General of the Commonwealth and the United Nations High Commissioner for Human Rights on ways in which the international community might offer practical assistance to Nigeria to achieve the full enjoyment of human rights in that country. In cooperation with the Commonwealth, and in consultation with the Government of Nigeria, I shall also be considering concrete ways in which the United Nations system can further assist Nigeria in ensuring the democratic

return to civilian rule by 1 October 1998, in accordance with the timetable previously established.

4. In pursuance of Commission on Human Rights resolution 1997/53 of 15 April 1997,[1] the Chairman of the Commission appointed on 24 June 1997, Mr. Tiyanjana Maluwa (Malawi) as Special Rapporteur of the Commission on Human Rights on the situation of human rights in Nigeria. Following the resignation, on personal grounds, of Mr. Maluwa on 12 August 1997, the Chairman of the Commission, after consultation with the members of the Bureau, appointed on 16 October 1997 Mr. Soli Jehangir Sorabjee (India) as Special Rapporteur (see, also, A/52/583).

5. The Special Rapporteur has been mandated to report to the General Assembly at its fifty-second session and to the Commission on Human Rights at its fifty-fourth session, and to establish direct contacts with the authorities and the people of Nigeria. Consequently, and within the framework of the mandate conferred on him by the Commission, the Special Rapporteur, following his nomination, has initiated informal consultations with the Permanent Representative of Nigeria to the United Nations Office at Geneva, with the objective of assessing the possibilities of undertaking an in situ fact-finding mission.

6. Based on the fact that the Special Rapporteur was only recently nominated and that the principle of an in situ mission appears to have every chance of materializing, the Special Rapporteur has decided not to submit an interim report on the situation of human rights in Nigeria to the General Assembly at its fifty-second session. Instead, a full report on the implementation of Assembly resolution 51/109 and Commission on Human Rights resolution 1997/53 will be submitted to the Commission at its fifty-fourth session. That report will be based, in the event that an in situ mission is acceptable to the Government of Nigeria, on the information and observations compiled directly by the Special Rapporteur during the proposed mission.

Notes

[1] Official Records of the Economic and Social Council, 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.